



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/838,486	04/07/1997	STEINUNN BAEKKESKOV	02307U-3122	8923

7590 06/01/2006

TOWNSEND AND TOWNSEND AND CREW  
TWO EMBARCADERO CENTER 8TH FLOOR  
SAN FRANCISCO, CA 941113834

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 08/838,486	<b>Applicant(s)</b> BAEKESKOV ET AL.	
	<b>Examiner</b> G. R. Ewoldt, Ph.D.	<b>Art Unit</b> 1644	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 16 August 2004 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

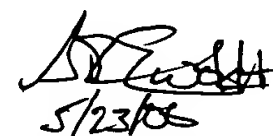
To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

As set forth previously, Appellant has repeatedly attempted to enter a new 1.132 declaration as well as multiple new references into the Brief. As the declaration and references have not been entered, a discussion of said declaration and references in the Brief renders it defective.

Appellant has specifically requested that the Remarks of 11/15/04 be addressed. The Remarks include arguments regarding why the aforementioned declaration and references should be entered into the case. Appellant argues that the declaration and references were filed in response to allegations and arguments made for the first time by the Examiner in the Final rejection of 7/29/03. Appellant is advised that the asserted allegations and arguments were made in response to the Inventor's declaration of 5/23/03. As no new rejections were made and no new grounds for the rejections of record were presented, Appellant's After Final declaration and newly submitted references have not been entered.

  
5/23/05

**G.R. EWOLDT, PH.D.  
PRIMARY EXAMINER**